

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-107-01087R

Parcel No. 8947-18-100-005

Larry and Sharon Susie,

Appellants,

v.

Sioux City Board of Review,

Appellee.

Introduction

This appeal came on for telephone hearing before the Property Assessment Appeal Board (PAAB) on March 22, 2016. Larry and Sharon Susie were self-represented. Attorney Jack Faith represented the Board of Review.

The Susies are the owner of a residential site located at 2850 Malloy Road, Sioux City. The site is 2.486 acres and has four outbuildings of nominal value.

The property's January 1, 2015, assessment was \$33,000, allocated as \$29,700 in land value and \$3300 in improvement value. The Susies protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Susies also commented in the section of the protest form reserved for a claim that there has been a downward change in value. However, we find the comments reassert their claim that the subject was over assessed. The Board of Review denied the petition.

The Susies then appealed to PAAB.

Findings of Fact

The Susies do not believe their property is fairly assessed as compared to several other properties in their assessment jurisdiction. To support their inequity claim, the Susies initially listed five properties on their Board of Review petition that they considered as reasonable equity comparables. The following chart is the information from the petition.

Comp#	Address	Assessed Site Value
Subject	2850 Malloy Rd	\$33,000
1	3001 Malloy Rd	\$45,500
2	2750 Malloy Rd	\$63,500
3	2748 Malloy Rd	\$ 1400
4	3000 Malloy Rd	\$44,900
5	3033 Malloy Rd	\$34,700

On their protest, the Susies submitted information about the pricing of the sites of comparable properties. All are priced the same at \$0.65 for the first 40,000 square feet and \$0.08 for the second 40,000 square feet. Anything in excess of this is priced at \$0.05 per-square-foot.

The Susies did not provide any other information about these properties. There is no information in the record about the properties to determine if they are comparable to the subject for an equity comparison. Moreover, there is no information indicating whether any of the properties recently sold and the Susies did not submit an opinion of market value for the properties. Market value information is necessary to develop an assessment/sales ratio analysis. Additionally, because none of the properties have sold recently, they are not relevant or reliable for an over assessment claim.

Sharon Susie also testified about her Exhibits 1-23. The majority of the exhibits and testimony refer to zoning, land use, and the term urban residential designation that is on her property record card, which are not relevant.

Susie takes issue with the notation of Urban Residential on her property record card. However, despite her concern there are only five types of property classified by the assessor: Agricultural, Commercial, Industrial, Multiresidential, and Residential.

The “URBAN” citation on her property record card has *no bearing* on the final assessment. The property is classified Residential and valued as Residential realty and whether it is urban or rural is of no difference. Susie has not articulately claimed this property should have any other classification; and they do not have a misclassification claim before PAAB. Moreover, the zoning of this property and its *classification* for *assessment* purposes is not the same.

The Susies did not offer any evidence of the market value of their property, such as an appraisal, comparable properties adjusted for differences, or a cost analysis.

The Board of Review did not submit any evidence.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm’s-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not

available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Susies offered five properties for an equity claim, however, none of the properties had sold recently and an opinion of the market value for the properties was not offered. Therefore an assessment/sales ratio analysis could not be developed, which is necessary to support an equity claim. Moreover, we find no evidence the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Susies did not

submit any evidence of the property's fair market value, such as an appraisal, a cost analysis, or comparable sales adjusted for differences.

For the foregoing reasons, the Board finds that the Susies failed to show their property is inequitably assessed or over-assessed.

Order

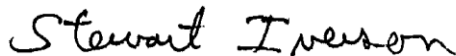
IT IS THEREFORE ORDERED that the Sioux City Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 27th day of April, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Sharon Susie

Jack Faith